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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/550,218	09/19/2005	Ilias Manettas	2003P00534WOUS	1364

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INTELLECTUAL PROPERTY DEPARTMENT
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EXAMINER	
RALIS, STEPHEN J	

ART UNIT	PAPER NUMBER
3742	

NOTIFICATION DATE	DELIVERY MODE
12/02/2009	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

NBN-IntelProp@bshg.com

Advisory Action Before the Filing of an Appeal Brief	Application No.	Applicant(s)	
	10/550,218	MANETTAS ET AL.	
	Examiner	Art Unit	
	STEPHEN J. RALIS	3742	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 17 November 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.

b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☐ Applicant's reply has overcome the following rejection(s): _____.

6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: _____.
   Claim(s) rejected: 12-26.
   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.

12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____

13. ☐ Other: _____.

/Stephen J Ralis/
Primary Examiner, Art Unit 3742

Continuation of 11. does NOT place the application in condition for allowance because: Examiner accepts amendments to the Claims and respectfully withdraws the objections, accordingly. However, the amendments to the drawings are not entered due to the inclusion of new matter as asserted previously and reiterated below. Furthermore, the objection to the drawings is outstanding, as set forth below.
With respect to applicant's reply/arguments to the objection to the Drawings, the examiner respectfully disagrees. The new drawings do enter new matter, as set forth in the previous Office action, with respect to "voltage amplitude", and therefore, are not entered as previously set forth.
With respect to applicant's reply/argument that "a voltage amplitude" is not deemed new matter due to the original disclosure being "a voltage value", the examiner respectfully disagrees. The examiner, incorporates by reference, the "Remarks" section previously addressing such an argument. The examiner reiterates for the record that "a voltage value" is a broad limitation, whereas "a voltage amplitude" is a narrow limitation. In addition, the examiner can find no support in the original disclosure to being limited to "a voltage amplitude". Therefore, the rejection stands.
With respect to the applicant's reply/argument to the 35 U.S.C. 112, second paragraph, rejection, the examiner respectfully disagrees. The examiner specifically asserted to applicant "It is unclear and uncertain to the examiner to what exact a "decreasing step function of the said recorded voltage amplitude" is and how it correlates to the generation of "said pulse-duty ratio" (previous Office action, paragraph 11). The examiner asserts that Figure 3 discloses increasing/ramp step functions that step down after a certain increment not decreasing step functions. Therefore, the examiner still maintains the 35 U.S.C. 112, second paragraph, rejection and queries applicant again to what exactly "a decreasing step function" is in light of Figure 3 and the claims as currently recited.
All arguments set forth in the instant after-final amendment are well taken, however, the rejections of the claims under at least the prior art of Zangari et al. (U.S. Publication No. 2003/0033822) in view of Chodacki et al. (U.S. Publication No. 2003/0164368) and Hickl et al. (U.S. Patent No. 5,416,300) are sustained for the reasons set forth in the final Office action.
In that regard, the examiner , incorporates by reference, the "Remarks" section addressing such arguments in paragraphs 19-22. Furthermore, with respect to appellant's reply/argument that the combination provides no reason (i.e. prima facie case of obviousness) to combine at least Zangari et al. and Chodacki et al. (as well as Hickl et al.), the examiner respectfully disagrees. To establish a prima facie case of obviousness, the examiner has provided at least the exemplary rationales to support a conclusion of obviousness in: "applying a known technique to a known device ready for improvement to yield predictable results"; and "some teaching, suggestion, or motivation in the prior art that would have led one of ordinary skill to modify the prior art reference or to combine prior art reference teachings to arrive at the claimed invention (see MPEP § 2143). The examiner maintains Zangari et al., when combined with Chodacki et al. and Hickl et al., establishes a prima facie case of obviousness, as set forth in MPEP § 2143. Therefore, the rejections of Zangari et al. in view of Chodacki et al.; and Zangari et al. in view of Chodacki et al. and Hickl et al. stand.